

HOT TOPICS 2016

The following is a listing of *possible* "hot topics" for 2016. Beginning on page three, items are listed by committee and in no particular order of priority. The inclusion of items herein does not mean that legislation is anticipated, but rather that the issue has received sufficient public comment to justify a belief that the legislature *may* address the issue in 2016.

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Agriculture Committee

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- **Marijuana**
 - **Food Deserts**
 - **Wildfire Funding**
-

Marijuana

The recreational usage of marijuana is prohibited in Louisiana. Proponents for recreational use of marijuana emphasize that allowing recreational marijuana to be sold in the state would bring in valuable tax revenue that could help the state during the current budget crisis. The Colorado Department of Revenue reported that it received nearly \$70 million in tax revenue from marijuana from July 1, 2014, through June 30, 2015, which was \$28 million more than the \$42 million that was collected in taxes on alcohol. Act 261 of the 2015 Regular Session, the Alison Neustrom Act, provided relative to prescribed marijuana for therapeutic uses. However, the legislature rejected HB 117 of the 2015 Regular Session which would have given the citizens of this state a proposition election regarding the legalization of recreational marijuana. This issue has been raised repeatedly during past sessions and may be raised again during the upcoming 2016 Regular Session. (Also see "Medical Marijuana" on page 15.)

Food Deserts

HCR 205 of the 2015 Regular Session created a task force to study and identify food deserts within the state. HB 547 of the 2015 Regular Session proposed a tax credit for qualified fresh food businesses that sell fresh food products in an area designated as a food desert community. According to the U.S. Department of Agriculture, Louisiana has numerous food deserts within the state, some within urban areas, but the vast majority of the food deserts are in the rural areas of the state. This issue may be revisited again in the 2016 Regular Session to try and address some of the food deserts within the state.

Wildfire Funding

Louisiana has been afflicted by numerous wildfires over the years and has done a valiant job to contain them with the limited funds, equipment, and manpower available. The National Conference of State Legislatures is supporting federal wildfire policy that lowers the risk of fire transfers and urges the federal government to fund wildfires in the same manner that they fund natural disasters. An increase in funding to combat wildfires in Louisiana would lead to more efficient handling of the wildfires and more resources to prevent the spread of them. This issue may be addressed in the upcoming 2016 Regular Session as the Department of Agriculture may ask the legislature to request more funding from Congress to address their shortfall in combating wildfires within the state.

Appropriations Committee

- **State Budget Outlook**
 - **Dedications of Revenue**
 - **Minimum Foundation Program (MFP)**
 - **Transportation Backlog**
-

State Budget Outlook

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The focus of the Appropriations Committee during the 2016 Regular Session and any extraordinary sessions will be addressing anticipated budget shortfalls in the current fiscal year and the next fiscal year with expenditure reductions, revenue increases, or a combination of the two. The Constitution of Louisiana requires that the annual budget passed by the legislature be balanced and requires that any shortfall in the current year be solved by the end of the next fiscal year.

Current Fiscal Year Budget - Fiscal Year (FY) 2015-2016

A mid-year revenue deficit for the current Fiscal Year 2015-2016 was solved in November 2015. According to the incoming Edwards administration, budget shortfalls of an additional \$700-\$750 million are estimated. The shortfall will have to be solved before the end of the fiscal year.

The incoming administration estimates the current year budget shortfall includes:

- \$400-\$450 million revenue shortfall due to the continued drop in oil prices, a decrease in corporate income tax collections, and a decrease in sales tax collections.
- \$300 million expenditure shortfall, including:
 - \$250 million in Medicaid Program spending.
 - \$20 million in the Taylor Opportunity Program for Students (TOPS).
 - \$20 million for the Minimum Foundation Program (MFP), based on the most recent October student count.
 - \$3 million in sheriff's housing of state prisoners.
- \$18 million reduction of state contracts, vacant positions, and other reductions to state agencies that are required in the preamble of HB 1, but have not yet been made.

These amounts are subject to change and additional shortfalls could be recognized before the end of the current fiscal year.

Next Fiscal Year Budget - Fiscal Year (FY) 2016-2017

The incoming Edwards administration estimates the budget shortfall for FY 2016-2017 will be \$1.9

billion. While the most recent Revenue Estimating Conference forecast adopted in November shows revenues are projected to increase for FY 2016-2017, replacement of one-time monies and an increase in projected continuation expenditures are causing a projected budget shortfall of approximately \$1.3 billion in the state general fund. Additionally, the incoming administration predicts that the state will face an additional \$600 million shortfall in revenue compared to what was previously expected due to falling mineral revenues and decreased revenues from corporate income taxes and sales tax collections.

The new administration will submit the executive budget recommendation for next fiscal year by February 13, and the governor is required to submit a balanced executive budget to the legislature. Discussions in the coming sessions will focus on how the governor will propose to address the projected deficits in his executive budget.

The \$1.9 billion shortfall anticipated for FY 2016-2017 is well over half of the \$2.9 billion in discretionary state general fund expenditures in state government in the current fiscal year. Discretionary dollars are those not mandated by the constitution, state law, or court order and are typically the area of government in which expenditure reductions are taken.

Although a special session has not yet been called, the incoming Edwards administration has indicated their desire to call a special session prior to the 2016 Regular Session to discuss budget issues. Additionally, the Constitution of Louisiana prohibits legislating with regard to tax measures in a regular session held in an even-numbered year. Discussions during the regular session and a special session, if called, will focus on the appropriate use of expenditure reductions and revenue increases to solve the shortfalls to balance the budget.

Dedications of Revenue

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A discussion related to the state budget that may come up during a 2016 Extraordinary Session and the 2016 Regular Session is the repurposing of revenue dedications to provide more flexibility in determining funding priorities in the state budget.

Much of the revenue that the state receives from various sources, including taxes and fees, can be dedicated in the Constitution of Louisiana and in statute. There are approximately \$4 billion in dedications appropriated in the state budget in the current Fiscal Year 2015-2016 through approximately 300 funds. Of the total, \$2.2 billion is dedicated in the constitution (ex. Transportation Trust Fund and the Coastal Protection and Restoration Fund) and the remaining \$1.8 billion is dedicated in the statutes (ex. Environmental Trust Fund).

The House Legislative Services (HLS) Fiscal Division estimates that approximately \$1.2 billion of the \$1.8 billion that is dedicated in statute is money that would go into the state general fund if not for the dedication. The remaining \$560 million of the dedications in statute are fees, fines, and penalties collected for a specific purpose.

Dedications authorized through statute can be changed or undone during the regular legislative process. Changes to mandates and dedications in the constitution require approval of 2/3 of the legislature and a majority vote of the citizens of Louisiana. If a special session occurs after mid-January, unless a special statewide election is called, the soonest a constitutional amendment could go to the voters would be in November 2016.

Minimum Foundation Program (MFP)

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During the 2015 Regular Session, the legislature appropriated approximately \$3.7 billion for the Minimum Foundation Program (MFP) that funds public K-12 education. Because the legislature did not approve a new MFP resolution, SCR 55 of the 2014 Regular Session remains in effect for FY 2015-2016. The appropriation provided additional funding outside the formula, including \$36.2 million, which is equivalent to a 1.375% increase in the base per pupil cost, to sustain certificated teacher pay raises and \$8 million to expand educational initiatives created in 2014.

In December 2015, the MFP Task Force approved a set of policy recommendations for the Board of Elementary and Secondary Education (BESE) to consider when developing the FY 2016-2017 MFP resolution. These recommendations include incorporating the additional funds appropriated into the new formula, in accordance with HCR 231 of the 2015 Regular Session. Providing additional funding for the MFP will be particularly challenging in the 2016 session as legislators work to pass a budget that addresses a shortfall projected for the upcoming fiscal year.

Transportation Backlog

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Louisiana faces over a \$12 billion backlog of state highway system needs. Transportation and infrastructure funding continues to be of concern among policy leaders, stakeholders, and the general public. The state's transportation system is largely funded by federal funds and by a 20-cents-per-gallon state tax on gasoline and motor fuels that is constitutionally dedicated to the Transportation Trust Fund (TTF). The 20 cents is comprised of a 16-cents-per-gallon gasoline tax and an additional 4-cents-per-gallon gasoline tax for the sole purpose of completing projects in the Transportation Infrastructure Model for Economic Development (TIMED) Program.

One concern is that the state's 16-cent gas tax is a flat, non-indexed tax that has consistently lost buying power from when the tax increased to its current amount in 1984. Due to inflation and rising construction costs, the state's 16-cent gas tax has a current day buying power of approximately 7 cents. Like the state's gas tax, the federal gas tax has lost ground to inflation and construction costs since its last increase in 1993. Another potential concern is that the 4-cent gasoline tax dedicated to the TIMED program is insufficient to cover the TIMED debt service payments. Monies from the Transportation Trust Fund's 16-cents-per-gallon revenue stream will be needed for TIMED debt service payments in future years, which will leave less funding for transportation projects. Some estimates indicate roughly 0.6 of a cent out of the 16-cent tax revenue is needed to cover the cost of next year's debt service.

Civil Law & Procedure Committee

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- **Civil Procedure**
 - **Religious Freedom**
 - **Child Support**
-

Civil Procedure

Limitations on the availability of jury trials is of interest each legislative session. Numerous bills were introduced over the past several sessions attempting to raise or lower the required dollar amount in controversy in order to be entitled to a jury trial. The Louisiana Association of Business and Industry (LABI) has indicated in several publications and news articles that it intends on pursuing this legislation in the upcoming session.

Religious Freedom

Legislation intended to protect religious freedom has been introduced in several states during recent legislative sessions and generated significant public interest in Louisiana. Religious freedom remains a subject matter of interest for the 2016 legislative sessions.

Child Support

Bills modifying child support laws are regularly introduced in legislative sessions. Recently, these have included extending the age of children entitled to child support when specific conditions are satisfied, as well as mechanisms to enforce child support for failure to pay. This topic continues to be one of interest in the Civil Law arena.

Commerce Committee

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- **Crowdfunding**
 - **Internet Gambling**
 - **Plumbing**
-

Crowdfunding

Generally, "crowdfunding" refers to the practice of funding a project or an emerging business by soliciting and raising many small amounts of money from a large number of investors typically by way of the internet. Investments made into businesses or other commercial enterprises are often regulated by the U.S. Securities and Exchange Commission (SEC) in addition to being the subject of other state and federal oversight.

As crowdfunding becomes an increasingly popular mechanism for raising vast amounts of capital, state legislatures have become aware of their needs not only to encourage small business owners and entrepreneurs to avail themselves of this growing resource but also to regulate how crowdfunding is monitored within their state's borders.

According to the National Conference of State Legislatures (NCSL), 27 states introduced legislation regarding crowdfunding in 2015.

Internet Gambling

Many states have recently proposed legislation aimed at legalizing online gambling. Alternatively, some states have proposed legislation meant either to prohibit online gambling or to commission studies for the purpose of analyzing the impact that the industry could have on states and their residents. States making the decision to allow online gambling have attempted to anticipate its commercial impact by initiating regulatory frameworks and minimum standards including but not limited to establishing procedures for obtaining and renewing licenses and permits, authorizing schedules of fees, and detailing enforcement and penalty provisions for related violations.

Widespread attention has also been paid to ongoing litigation that has focused on the classification of certain formats of online fantasy sports as gambling rather than as games of skill.

The topic of internet gambling also poses certain criminal justice questions to be considered, because Louisiana law currently prohibits gambling (R.S. 14:90) and gambling by computer (R.S. 14:90.3).

Plumbing

The Louisiana State Uniform Construction Code Council (LSUCCC) has promulgated a rule adoption, including necessary amendments, of plumbing provisions in the International Plumbing Code, International Building Code, and the International Residential Code. The rule adoption is a result of Act 836 of the 2014 Regular Session. The newly promulgated rule replaces the Louisiana State Plumbing Code, LAC 51:XIV.101 through 1813, which was repealed in its entirety as of January 1, 2016.

Criminal Justice Committee

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- **Gun Laws**
 - **Drones**
 - **Juvenile Court Jurisdiction**
 - **Corrections and Sentencing Reform**
-

Gun Laws

With continued mass shootings across the country and recent executive orders addressing the purchasing of firearms, it is likely that there will be legislative activity regarding firearms. Two bills have already been prefiled for the 2016 Regular Session addressing concealed handgun provisions of Louisiana law. Other areas of interest may include extended criminal background checks prior to the purchase of firearms and increased and more efficient reporting of mental health issues related to the purchase of firearms.

Drones

Beginning in 2013, state legislatures have considered many pieces of legislation addressing unmanned aircraft systems. Unmanned aircraft systems, commonly referred to as unmanned aircraft vehicles or drones, are beginning to serve a multitude of purposes including law enforcement, land surveillance, wildlife tracking, search and rescue operations, disaster response, border patrol, and photography. The Federal Aviation Administration (FAA) has worked to develop rules specifying certain requirements for unmanned aircraft systems including minimum age requirements, and one rule would require drones of a certain weight operating in the National Air Space to electronically register with the FAA. With the growing use of drones and the federal government's recent moves to regulate their use, it is likely that drone legislation will be a hot topic for 2016. (Also see page 17.)

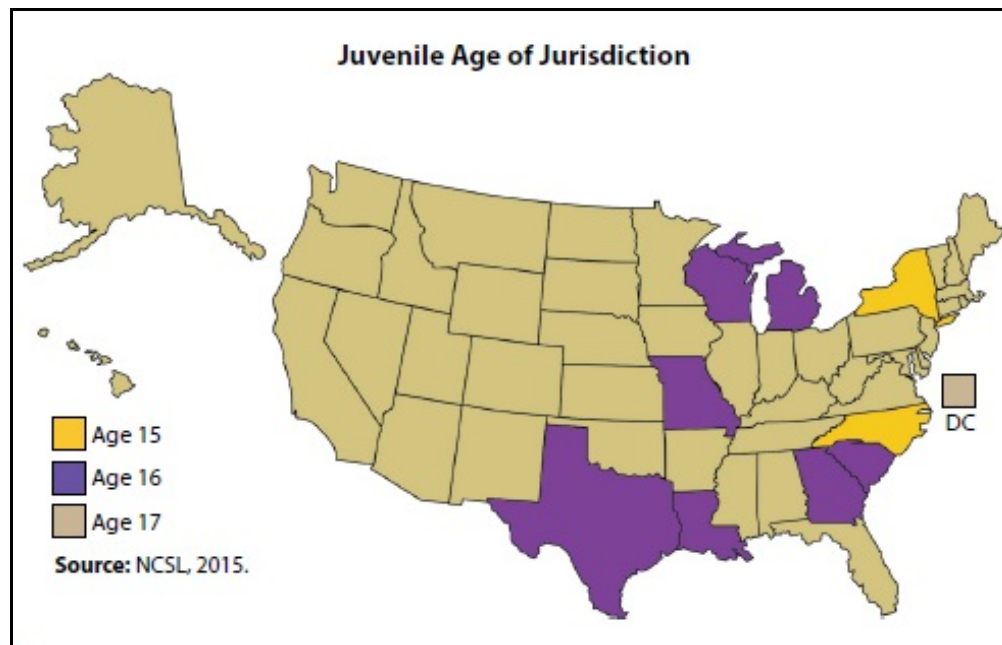
Juvenile Court Jurisdiction

While most states (41 states) set the maximum age of juvenile court jurisdiction at 17 years old, Louisiana is one of seven states with the maximum age of juvenile court jurisdiction at 16 years old. (New York and North Carolina set the age at 15 years old.)

Proponents of the "raise-the-age" legislation argue that young people should be tried in juvenile court to ensure that they are not sentenced to adult prisons and have access to more age-appropriate services and placement options.¹ Opponents argue that raising the age of juvenile court jurisdiction will result in increased costs and will hamper the court's ability to appropriately punish serious

¹NCSL Legisbrief – "Raising the Age of Juvenile Court Jurisdiction" – Vol. 23, No. 39, Oct. 2015 (available on NCSL website after login [here](#) or by contacting Criminal Justice Committee staff)

crimes committed by young people. (Id.) Last year, the legislature passed HCR 73 which requests the Institute on Public Health and Justice to study the issue of raising the age of juvenile court jurisdiction in Louisiana to include 17-year-olds. A report on its findings is expected in early 2016.



Corrections and Sentencing Reform

NCSL's "Setting the Scene for 2016" states in part: "From the president and the pope to political heavyweights and cultural icons, a growing chorus is drawing national attention to corrections and sentencing reforms. States are leading the charge. Many of these efforts involve bipartisan, multibranch task forces that collect and analyze information on what drives prison populations and costs. What then emerges are policies that address the costs while holding offenders accountable and protecting the public." Louisiana is also part of this national trend with reports of a task force being created by the legislature this session to "launch an intensive, data-driven review of state sentencing and corrections issues", commented Kevin Kane of the Pelican Institute for Public Policy, with the goal of presenting the legislature with a comprehensive reform package for the 2017 legislative session.

Education Committee

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- **Elementary and Secondary Education**
 - **Minimum Foundation Program (MFP)**
 - **State Content Standards**
 - **Postsecondary Education**
-

Elementary and Secondary Education

The governor-elect has appointed an elementary and secondary education transition team to explore several education issues. According to a press release and news reports detailing the team's work, these issues include accountability, assessments, state funding for prekindergarten programs, school choice, local control, the minimum foundation program (MFP), and state content standards. Discussions regarding these matters will continue as the new term begins, and legislation pertaining to them is likely to be introduced this year.

More information is as follows:

- **Minimum Foundation Program (MFP):** See page 6.
- **State Content Standards:** As it relates to state content standards for public elementary and secondary schools, legislation was enacted in the 2015 Regular Session to require a review of the Common Core State Standards by the State Board of Elementary and Secondary Education (BESE). This legislation (Act 329) also requires BESE to develop state content standards for English language arts and mathematics and to adopt such standards by March 4, 2016. These standards are subject to legislative and gubernatorial oversight as provided in the Administrative Procedure Act (APA). Depending on the results of any exercise of such oversight authority and related issues, there could be legislation introduced in 2016 to once again address the use of the Common Core State Standards in Louisiana's public schools.

Postsecondary Education

According to a press release, the governor-elect tasked a postsecondary education transition team with developing recommendations to make "college more affordable for students and stronger". In light of the current budget shortfall, it is likely that the recommendations will be related to funding, tuition, and the Taylor Opportunity Program for Students (TOPS), including legislation to address lingering concerns about maintaining the TOPS program despite ongoing fiscal challenges and rising college tuition costs. Also see TOPS entry under "Current Fiscal Year Budget - Fiscal Year (FY) 2015-2016" on page 4.

Health and Welfare Committee

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- **Medicaid Expansion**
 - **Access to Mental Health Services**
 - **Full Transition of Louisiana's Medicaid Program to Managed Care**
 - **Medical Marijuana**
 - **Telemedicine and Telehealth Services**
-

Medicaid Expansion

A U.S. Supreme Court decision in June of 2012 upheld the overall constitutionality of the Affordable Care Act (ACA), but also rendered the proposed expansion of Medicaid eligibility provided in the act as optional for individual states. From that date through the end of 2015, Washington, D.C., and 30 states, excluding Louisiana, have accepted federal funding to expand Medicaid per ACA guidelines to cover individuals and families with incomes up to 138% of the federal poverty level (\$33,465 in annual household income for a family of four per 2015 poverty guidelines).

A policy decision that states have faced when considering Medicaid expansion is whether to implement the expansion through a simple change in income eligibility for the state's existing program (the basic form of expansion contemplated in the ACA, sometimes referred to as a "straight expansion"); or to seek a "waiver" from the federal Medicaid agency, the Centers for Medicare and Medicaid Services (CMS), which would allow for an expansion of Medicaid within the confines of special conditions and limitations developed by the state and subject to CMS approval.

"Waivers" are so named because they are a mechanism by which CMS may waive otherwise applicable provisions of federal Medicaid laws and regulations in order to allow a state to implement a demonstration project with special guidelines or services within its Medicaid program. As of January 1, 2016, CMS has approved waivers to implement Medicaid expansion in seven states. The first and one of the best known waiver programs is that of Arkansas, which gained CMS approval in 2013 to use Medicaid funds as premium assistance for newly eligible beneficiaries to purchase private health insurance. Since the advent of the "Arkansas model," CMS has approved Medicaid expansion through a premium assistance program in two other states (Iowa and New Hampshire), and has approved other waivers providing for a small range of program variations in four other states (Indiana, Michigan, Montana, and Pennsylvania). Examples of waiver program aspects that CMS has approved to date include allowing states to require monthly contributions from adults with income above 100% of the federal poverty level; to assess monthly contributions on individuals below poverty (however, CMS has stipulated that failure to pay these amounts cannot result in termination of Medicaid coverage); to forego coverage of non-emergency medical transportation, an otherwise required Medicaid benefit, for some enrollees; and to implement healthy behavior incentives such as health risk assessments, smoking cessation, wellness exams, periodic dental exams, and other disease prevention efforts to reduce or eliminate out-of-pocket expenses assessed on some enrollees. Examples of waiver program aspects that CMS has rejected to date include

assessing premiums for individuals with incomes below 100% of the federal poverty level and making payment a condition of eligibility; imposing enrollee cost-sharing in amounts greater than those allowed under federal law; and instituting work requirements as a condition of Medicaid eligibility.

While several state waiver programs have been approved to date and several more have been proposed or are currently in development, CMS has indicated that it intends to limit the number of waiver programs it will approve, as these programs are intended to be demonstration projects. The agency has also cautioned that a feature of a waiver program being approved in one state does not guarantee that the same feature will be approved in another state. Thus, in considering options for Medicaid expansion, state policymakers must weigh the cost in time and uncertainty associated with the waiver approach against the "straight expansion" approach, which offers comparative ease of implementation but also limits states to following established federal guidelines for the Medicaid program.

Access to Mental Health Services

In recent years, the availability of mental health services has declined in Louisiana and other states due in large part to cuts in government spending on these services, with the cuts being both a cause and effect of an ongoing shift away from provision of mental health treatment in institutional settings. As a result of diminishing access to mental health services - a situation which advocates have deemed to be a crisis - a growing number of persons in need of mental health treatment are being held in parish jails and other correctional facilities around the state. Some estimates of the prevalence of mental illness among Louisiana's incarcerated population indicate that there are roughly 17 times as many people with mental illness in prisons and jails than there are total beds in the two remaining state psychiatric hospitals (650 beds compared with approximately 11,000 incarcerated persons with mental illness).

A high-profile example of recent cuts to mental health services occurred in Baton Rouge in April of 2013, when the Mental Health Emergency Room Extension (MHERE) of the publicly operated Earl K. Long Medical Center ceased providing services as a result of the closure of the hospital and privatization of its services. The MHERE was a ten- to fifteen-bed crisis receiving center where specialized staff screened and assessed persons in mental health or behavioral health crisis, and functioned to stabilize those patients and connect them to either acute or ongoing treatment to diminish their recurrent need for crisis services. With the closure of the MHERE, local jails and hospital emergency departments began to absorb a growing number of persons suffering from mental illness, and these facilities continue to face significant challenges associated with providing care for this population.

Similarly, policymakers face significant challenges when confronting problems associated with diminished access to mental health services. The policy question of whether to increase or decrease the level of services provided in institutional settings is a subject of ongoing debate; and even if the question of appropriate policy is settled, legislators will still face challenges, as they do today, in funding mental health services.

Full Transition of Louisiana's Medicaid Program to Managed Care

In June of 2011, Louisiana's Medicaid program began a major shift away from a fee-for-service payment model toward an insurance-based managed care model when the Department of Health and Hospitals (DHH) established a coordinated care network program, now called "Bayou Health," by administrative rule. In the fee-for-service system – in place since the inception of the state's Medicaid program in 1966 and now referred to as "legacy Medicaid" – DHH pays healthcare providers and facilities for treating program enrollees according to an established set of rates for health services. Through the managed care system, DHH now contracts with private insurance companies which coordinate care for certain Medicaid enrollees and pay provider claims.

Bayou Health began operating on a statewide basis in 2012. Initially, the program covered only certain physical health services and excluded the populations that account for the greatest share of Medicaid spending, those being the aged, persons with disabilities, and persons receiving care in nursing homes and other institutions. Since the inception of Bayou Health, DHH has moved incrementally to institute managed care for additional populations and services, and Bayou Health now includes all Louisiana Medicaid enrollees except for approximately 72,000 persons receiving long-term care services in institutional or home-based settings. This is the last population remaining in the fee-for-service "legacy Medicaid" system.

In 2013, DHH officials began publicly discussing plans to include this population within Bayou Health through a system known as Managed Long-Term Supports and Services (MLTSS). The movement toward MLTSS advanced in 2013 and 2014, culminating in the development of a request for proposals (RFP) for provision of these supports and services by a prospective private contractor. However, in consideration of the longstanding objection by the state's nursing home industry to inclusion of nursing homes within Medicaid managed care, DHH delayed the release of the RFP, then announced in August of 2015 that it would suspend its efforts to implement MLTSS until the new gubernatorial administration takes office in 2016.

Medical Marijuana

In 1991, the legislature legalized the use of marijuana for medicinal purposes. However, until 2015, no legal means to produce or dispense therapeutic marijuana existed in this state. Act 261 of the 2015 Regular Session provides that missing link by authorizing the LSU and Southern University Agricultural Centers or, if both universities decline, one producer selected by the La. Department of Agriculture to grow therapeutic marijuana at a single growing site, and requiring the La. Board of Pharmacy to develop a nontransferable specialty license for a pharmacy to dispense prescribed marijuana, with a limit of 10 on the number of such licenses to be granted.

Act 261 prohibits therapeutic marijuana from being dispensed in raw form, crude form, or any form suitable for smoking. The act stipulates further that in any therapeutic marijuana produced in the state, the levels of the main psychoactive substance in the marijuana plant, tetrahydrocannabinol (THC), are to be reduced to the lowest possible levels. While the 2015 act left unchanged a provision of the former law limiting medical marijuana access to patients suffering from glaucoma or spastic quadriplegia and to patients undergoing chemotherapy, the new law authorizes the La. State Board of Medical Examiners to recommend to the legislature additional health conditions which could qualify a patient to use medical marijuana.

Administrative procedures to establish the growing site and 10 authorized dispensaries will be ongoing at the time the 2016 Regular Session convenes, and the prevailing opinion among informed observers is that the process of making medical marijuana available to Louisiana patients will take roughly two more years under the current law. (Also see "Marijuana" on page 3.)

Telemedicine and Telehealth Services

Act 442 of the 2014 Regular Session modernized state laws relative to the practice of telemedicine, which had last been amended in 2008. The 2014 legislation also established a definition of "telehealth" for the first time in state law and required the state boards that license and regulate healthcare professions to institute regulatory reforms that will accommodate telehealth service delivery within each profession's existing scope of practice.

Also in 2014, HCR 88 created the Task Force on Telehealth Access to serve as an advisory body to the legislature and the executive branch on policies and practices that expand access to telehealth services. Throughout 2015, the task force studied and reported on numerous aspects of telehealth policy for the legislature to consider going forward. These policy aspects include technical standards for delivery systems, means of addressing barriers to telehealth expansion, and insurance coverage reforms. The task force issues a semiannual report on the status of telehealth access in Louisiana, the most recent of which was issued in December, 2015.

Insurance Committee

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- **Automobile Insurance Rates**
 - **Driverless Vehicles**
 - **Drones**
 - **Health Insurance Agent Commissions**
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Automobile Insurance Rates

Louisiana is among the top five states with the highest automobile insurance rates. This is generally attributable to a number of factors, including the large number of uninsured motorists on Louisiana roads, the condition of the roads, and factors related to personal injury lawsuits brought as a result of accidents.

Driverless Vehicles

Several companies are field testing driverless vehicles in California, and these vehicles may be in use in Louisiana within the next several years. The legislature could be faced with addressing a number of issues as a result of these vehicles. Who is responsible for payment of damages if the driverless vehicle is involved in an accident? Will automobile insurers provide coverage for driverless vehicles? Can the insurer exclude coverage for accidents that occur because the driverless vehicle operating system was "hacked" by a third party, and, if so, who then becomes liable for the damages sustained by an innocent party injured as a result of the "hack"?

Drones

Drone ownership and usage are becoming more common. A drone is considered an aircraft by most, if not all, homeowner's policies, and coverage is therefore likely excluded. Most policyholders probably do not realize that there is no insurance coverage for drone use unless a policy rider is added to provide such coverage. (Also see page 10.)

Health Insurance Agent Commissions

Health insurers believe they are losing money on the individual policies issued pursuant to the Affordable Care Act, and are therefore attempting to cut costs wherever possible. This includes attempts to lower, or end, agent commissions on the individual policies sold by insurance agents. The Center for Medicare and Medicaid (CMS), which has regulatory authority over the ACA Exchange Marketplace, is also attempting to lower or end agent commissions. While the states have no regulatory authority over the Exchanges, the states may take action to ensure the rights of individual agents to their commissions on policies sold outside of the Exchange.

Judiciary Committee

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- Law Enforcement Authority
 - Immigration
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Law Enforcement Authority

Police Use of Deadly Force

According to the 1985 U.S. Supreme Court case, *Tennessee v. Garner*, 471 U.S. 1 (1985), police may use deadly force if it is necessary to prevent the escape of a fleeing felon who poses a serious physical threat to the officer or others.

In 2015, state legislatures considered legislation that would require specific procedures for investigating police-involved deaths, address the appointment of special prosecutors, and improve public dissemination of information explaining prosecutorial decisions. At least 24 states considered legislation to address investigatory procedures for officer-involved deaths. Measures in 13 of those states addressed the appointment of special prosecutors.

Police Use of Body Cameras

Body-worn cameras are devices that police officers can wear as part of their uniforms to record what they see as they perform their duties. Proponents of body-worn cameras have argued that video and audio recordings of law enforcement's interactions with the public will provide the best evidence of accusations of police misconduct, as well as a defense to accusations of such conduct. They also argue that the cameras reduce tension between police officers and the public.

The legal concerns that have been raised regarding the use of body cameras provide for practical and constitutional hurdles to their implementation. These include funding, data storage and retention, open records laws, recording in areas protected by the Fourth Amendment, and appropriate regulations for police use.

In 2015, a majority of states (34 as of May 18th) considered legislation to address body-worn cameras for law enforcement, with approximately six states enacting such laws, including Arizona, Colorado, Florida, Maryland, North Dakota, and Utah.

Louisiana Efforts

During the 2015 Regular Session, the legislature passed HCR 180, which created the Louisiana Law Enforcement Body Camera Implementation Task Force. The task force was charged with studying and making recommendations to the legislature regarding requirements for the development of implementation of policies and procedures for the use

of body cameras by law enforcement agencies. The task force report is due prior to the 2016 Regular Session.

Also introduced during the 2015 Regular Session was HB 183, a bill which would have required all law enforcement officers in the state to wear body cameras while performing their duties; however, this bill was not reported out of the House Judiciary Committee.

Immigration

States issue driver's licenses under the constitutional authority of the Tenth Amendment. Congress enacted REAL ID in 2005 creating standards for state-issued driver's licenses, including evidence of lawful status. Twelve states and the District of Columbia enacted laws to allow unauthorized immigrants to obtain a driver's license. In 2015, Delaware and Hawaii enacted legislation to give unauthorized immigrants driving privileges. It is anticipated that immigration issues, including nutrition assistance programs, labor force issues, and tax revenues, will continue to be of interest to state legislatures in 2016.

Louisiana Efforts

During the 2015 Regular Session, the legislature passed HR 175, which created an Immigration Task Force. The task force was charged with studying and reporting to the legislature the fiscal and economic impact of illegal immigration in the state. The task force report is due prior to the 2016 Regular Session.

Refugee Resettlement

A refugee is defined by the Immigration and Nationality Act as any person outside his or her country who has a "well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."

Under the current program, the U.S. accepts up to 70,000 refugees per year from five different regions of the world. Refugees are vetted overseas and background checks are conducted through several federal agencies, including the Department of Homeland Security, National Counterterrorism Center, and FBI. Forty-nine states participate in the refugee resettlement program to assist those fleeing persecution to become self-sufficient and integrated into their adopted communities.

States receive funding from the Office of Refugee Resettlement for cash and medical assistance, social services (such as English language and job training), targeted assistance, and preventive health. States either provide services directly or contract with nonprofit organizations to carry out and implement resettlement services.

Thirty-two states administer the funds through state-run offices. Louisiana is one of 12 states that participate in the alternative Wilson-Fish program which contracts with nonprofit organizations.

President Obama made a "Presidential Determination on Refugee Admissions for Fiscal Year 2016", which increases the admission of refugees from 70,000 to up to 85,000. For further information on the Presidential Determination, see the memorandum for the secretary of state [here](#) or contact Judiciary Committee staff.

Labor and Industrial Relations Committee

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- **Minimum Wage Increases**
 - **Pay Equality**
 - **Payroll Deductions**
-

Minimum Wage Increases

For the last several years, Congress has introduced the Fair Minimum Wage Act which would have increased the federal minimum wage by a system of three annually occurring raises followed by the use of a formula for annual increases thereafter. Because the Fair Minimum Wage Act has not been successfully passed, on February 12, 2014, President Obama signed Executive Order 13658, "Establishing a Minimum Wage for Contractors," to raise the minimum wage to \$10.10 for all workers on federal construction and service contracts. Executive Order 13658 applies to new contracts and replacements for expiring contracts with the federal government that result from solicitations issued on or after January 1, 2015, or to contracts that are awarded outside the solicitation process on or after January 1, 2015.

Alongside a federal movement for an increase of minimum wage, more than half of the states have raised minimum wage within the past two years. According to the National Conference of State Legislatures, 14 states begin 2016 with higher minimum wages. Of those, 12 states increased their minimum wage rates through legislation passed in the 2014 or 2015 sessions, while two states automatically increased their rates based on the cost of living.

Of the 11 states that currently tie increases to the cost of living, eight did not increase their minimum wage rates for 2016. Colorado provided for an 8-cent increase and South Dakota granted a 5-cent increase per hour. Increases in Nevada are required to take effect in July. Maryland, Minnesota, and Washington, D.C., have additional increases scheduled for 2016. Legislation in the states varies and often includes a raise of the state minimum wage in general, increases for tipped workers, or both.

A number of cities across the country have recently enacted their own citywide minimum wages that are higher than the state and federal minimum wages. This trend, along with "living wage" legislation, seems to be gaining momentum across the nation. The incoming governor has expressed his intention to pursue minimum wage legislation if Congress does not raise the federal minimum wage.

Pay Equality

Pay equality, also referred to as Equal Pay for Women, has been a hot topic for several years within the state of Louisiana and the nation. In 2013, the Louisiana legislature passed the Equal Pay for Women Act. The Equal Pay for Women Act requires pay equality for women who are employed by any department, office, division, agency, commission, board, committee, or other organizational unit

of the state of Louisiana. Legislation proposed in the 2015 Regular Session to expand the Equal Pay for Women Act to include employees in the private sector was unsuccessful. Because pay equality continues to be a topic of interest and because the incoming governor has indicated that the issue is a priority, there may be legislation in the upcoming session.

Payroll Deductions

In recent sessions, legislation has been introduced to remove union dues as an authorized payroll deduction for public employees. Opponents and proponents have strong arguments on the robust issue and because there is interest in the outcome, authorized payroll deductions for union dues may be discussed again in the upcoming session.

Natural Resources and Environment Committee

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- **Waste Tire Recommendations**
 - **Orphan Well Program**
 - **Clean Power Plan**
-

Waste Tire Recommendations

Act 427 of the 2015 Regular Session required the Waste Tire Program Task Force to make recommendations on improving the program, including fee structure changes, to the oversight committees. Although the program has been successful in eliminating illegal piles of waste tires, the Department of Environmental Quality (DEQ) has struggled for a decade to timely pay waste tire processors.

Orphan Well Program

SCR 89 of the 2015 Regular Session created a task force to study the regulation of oil and gas wells and the management of orphan wells. Much of the discussions during the task force meetings have centered around the orphan well program, the effect of low oil prices on small operators, and their ability to comply with the program's financial security requirements. The task force is required to submit their report no later than February 1, 2016.

Clean Power Plan

The Environmental Protection Agency's (EPA) new rules require states to reduce carbon dioxide emissions from power plants by an average of 32% nationally by 2030. The rules, created under Section 111(d) of the Clean Air Act, allow states to choose how to reduce emissions however they see fit and grant the option to comply individually or in coordination with other states.

Act 726 of the 2014 Regular Session requires the Department of Environmental Quality (DEQ) to develop performance standards based on measures that can be implemented at each fossil fuel-fired electric generating unit in the state. DEQ's compliance plans are due to the EPA in September; that is, if the federal law survives legal challenges filed by more than half the states. These states claim the EPA overreached its authority and that the plan would harm many states that depend on coal to power their economies.

Transportation Committee

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- **Funding for Transportation Infrastructure Projects**
 - **REAL ID**
 - **Debt Recovery Efforts Related to Insurance Cancellations**
 - **Fixing America's Surface Transportation (FAST) Act**
-

Funding for Transportation Infrastructure Projects

Proponents for enhanced funding report that the need for new capacity projects and continued maintenance to existing infrastructure continues to grow as the buying power of the gas tax is diminished. Legislators continue to search for sources of alternative funding for these infrastructure projects.

REAL ID

Louisiana driver's licenses and identification cards do not meet all the requirements of the REAL ID Act of 2005. The REAL ID Act is designed to establish minimum standards for state-issued driver's licenses and identification cards and provides for the authorization of grants to help states implement these standards. It also prohibits federal agencies from accepting for official use (i.e. accessing federal facilities, boarding federally regulated commercial aircraft, etc.) driver's licenses and identification cards unless they meet the requisite standards as determined by the Department of Homeland Security.

In 2008, Louisiana passed legislation prohibiting the Department of Public Safety and Corrections, office of motor vehicles, from implementing the REAL ID Act. However, the legislature sought to rectify the issue through legislation in the 2014 Regular Session by adopting provisions of REAL ID, but the legislation was vetoed in June 2014.

In the fall of 2015, there was concern that Louisiana-issued credentials would not be accepted for air travel. The U.S. Department of Homeland Security issued an extension for Louisiana citizens until October 2016, thus a Louisiana resident may use their Louisiana driver's license or identification card to board federal commercially regulated aircrafts for the time being.

Debt Recovery Efforts Related to Insurance Cancellations

Act 399 of the 2013 Regular Session established the Office of Debt Recovery (ODR) within the Louisiana Department of Revenue to serve as a centralized debt collection agency for state agencies. ODR is designed to be an efficient, highly automated, centralized collection operation utilizing state-of-the-art collection tools that are unique to state government, as well as outside collection agencies and suspension of licenses where appropriate.

Act 414 of the 2015 Regular Session authorized certain reinstatement fees relative to insurance cancellations owed to the office of motor vehicles (OMV), amongst other fees, to be declared final delinquent debt and forwarded to ODR for collection.

In the fall of 2015, OMV sent two notices regarding outstanding insurance cancellations to thousands of people. The notices informed customers that OMV records still indicated that compliance with required insurance coverage had not been received or the appropriate fees owed had not yet been paid. The notices granted the customers a certain amount of time in which to contact OMV to provide the proper documentation or pay the fee owed. The notices also informed customers that failure to comply within the proper time frame would result in the fee being declared final delinquent debt and would be forwarded to ODR for collection. Additionally, the notices informed the customers that if they did not ultimately comply with the notices, fees owed would be declared final delinquent debt and increased to the maximum of \$525 in addition to a 25% collection fee to be retained by ODR.

In December of 2015, OMV declared all fees that had not been paid or waived relating to insurance cancellations as final delinquent debt and forwarded those records to ODR for collection. The Office of Debt Recovery has numerous tools available for the collection of debt to include income tax refund offsets.

The Office of Motor Vehicles and legislators will continue to work through the issues surrounding uncollected debt related to insurance cancellations.

Fixing America's Surface Transportation (FAST) Act

On December 4, 2015, President Obama signed the Fixing America's Surface Transportation (FAST) Act, which represents the first long-term, comprehensive surface transportation policy proposal since 2005's Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. The FAST Act authorizes federal highway, highway safety, transit, and rail programs for five years from federal fiscal years 2016 - 2020.

It is estimated that over the five-year life of the new federal bill, Louisiana could realize an increase in federal highway spending authority of \$315 million, of which the Department of Transportation and Development will have discretion over about \$250 million with the rest being allocated to local governments and special programs. In addition, the bill provides possible grant opportunities funded at \$800 million in federal fiscal year 2016 and escalating to \$1 billion in federal fiscal year 2020.

Ways and Means Committee

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- **Tax Policy Changes (anticipated special session)**
 - **Capital Outlay Reform**
-

Tax Policy Changes (anticipated special session)

As discussed in the Appropriations Committee section beginning on page 4, the incoming administration anticipates budget shortfalls of \$700-\$750 million in the current year and \$1.9 billion in Fiscal Year (FY) 2016-2017. Proposals to address the budget shortfall will likely include discussions involving some combination of reductions in operating budget expenditures coupled with revenue increases associated with policy changes to various state taxes.

Revenue increases associated with tax policy changes are prohibited from being considered during a regular session commencing in an even-numbered year (often referred to as a general session). Therefore, legislation associated with tax policy changes can only be considered in a special session due to the subject matter restrictions of the 2016 Regular Session. Measures to increase state tax revenue include modifications or reductions of income tax credits, deductions, or exemptions as well as increases in the state sales tax rate or reductions or modifications to state sales and use tax exemptions or exclusions. Other measures to increase state tax revenue include changes or modifications to existing severance tax exemptions and increases in the state excise tax on cigarettes, vapor products, and other tobacco products as well as increases in the state excise tax levied on alcoholic beverages as possible avenues to make up some of the projected revenue shortfall. State sales tax policy changes will result in immediate state tax revenue which could be used by the legislature to address the current fiscal year and FY 2016-2017 deficits.

During the interim, many discussions have been had regarding long-term policy changes in both the individual and corporate income taxes. Although modifications to income taxes do not equate to immediate revenue, long-term reform to these taxes can improve the overall stability of the state's tax base. Long-term policy changes include modifications and adjustments to the rates and brackets, scaling back or elimination of tax expenditures, and implementing corporate addbacks and combined reporting. In 2015, preliminary findings of the Tax Study commissioned by the House and Senate and headed by Dr. Jim Richardson were released, giving short-term and long-term options for changing the Louisiana tax structure. Some of these options were discussed, considered, and adopted during the 2015 Regular Session. Many of these options will again be discussed and considered during an anticipated upcoming special session.

Capital Outlay Reform

Under current law, each year the Division of Administration makes recommendations to the Joint Legislative Committee on Capital Outlay and the State Bond Commission regarding capital outlay appropriations that will be funded through lines of credit recommendations. The Joint Legislative

Committee on Capital Outlay has no authority to make changes or modifications to the list of capital outlay appropriations recommended for funding. Over the last several years, bills have been filed by House members to reform the capital outlay process in order to give the legislature a greater role in recommending capital outlay projects for funding. Since none of the past measures have passed, it is possible that this issue may come up again during the 2016 Regular Session.